

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

15-CR-179-FPG

DONALD GARDNER, JR.,

Defendant.

SPEEDY TRIAL ORDER

(September 15, 2017 through November 17, 2017)

On September 15, 2017, the parties appeared before the Court for a status conference. Assistant United States Attorney Mary C. Baumgarten appeared on behalf of the government. The defendant appeared personally and with his attorney, Assistant Federal Public Defender Frank R. Passafiume.

At that time, the defendant advised the Court that he needed additional time to conduct plea negotiations with the government, and requested a continuance of proceedings in this action in order to continue efforts to obtain a favorable pretrial plea. The government did not oppose the request for the continuance, and updated the Court with respect to those ongoing efforts.

The Court granted the defendant's request and based on the representations of the parties, scheduled a status conference for November 17, 2017 at 10:00 a.m. The Court excluded the time in this action from September 15, 2017 through and including November

17, 2017, pursuant to 18 U.S.C. §§ 3161(h)(1)(A) and (h)(7)(B)(iv) of the Federal Rules of Criminal Procedure, the Court having found that granting of the continuance is in the interest of justice and not contrary to the interests of the public and the defendant in a speedy trial.

Specifically, and for the reasons set forth above, the Court determines that the public's interest in conserving resources by avoiding needless pre-trial litigation, the time and expense of both a trial and a likely appeal, and combined with the certainty of conviction obtained through a plea of guilty by defendant, outweigh the public's interest in a speedy trial. Furthermore, the defendant's interests in obtaining the benefit of a lesser sentence, which would likely accompany a pretrial disposition of this matter, and in obtaining additional items of discovery necessary to inform the defendant's decision whether to plead guilty, outweigh the interests of the defendant in a speedy trial.

NOW, for the reasons set forth above and on the record in open Court on September 15, 2017, it is hereby

ORDERED, that for the reasons set forth above, the status conference is adjourned until November 17, 2017; and it is further

ORDERED, that the time in this action from and including September 15, 2017, through and including November 17, 2017, is properly excluded from the time within which trial must commence, in accordance with the Speedy Trial Act, pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv).

The Court further finds that as of November 17, 2017, zero days of Speedy Trial Act time will have elapsed in this action and 70 (seventy) days remain in the period within which trial must commence.

DATED: Buffalo, New York, September 15, 2017.

A handwritten signature in black ink, appearing to read 'H. Kenneth Schroeder, Jr.', written over a horizontal line.

H. KENNETH SCHROEDER, JR.
United States Magistrate Judge